

**UNITED STATES DISTRICT COURT, NORTHERN DISTRICT OF TEXAS,
DALLAS DIVISION**

	§ No.
RIS ROLLINS,	§
	§
Plaintiff,	§
	§
v.	§
	§
RECOVERY PROCESSING SYSTEMS	§
	§
Defendant.	§
	§

PLAINTIFF'S COMPLAINT AND DEMAND FOR JURY TRIAL

RIS ROLLINS (Plaintiff), through his attorneys, KROHN & MOSS, LTD., alleges the following against RECOVERY PROCESSING SYSTEMS. (Defendant):

INTRODUCTION

1. Plaintiff's Complaint is based on the Fair Debt Collection Practices Act, *15 U.S.C. 1692 et seq.* (FDCPA).
2. Defendant acted through its agents, employees, officers, members, directors, heirs, successors, assigns, principals, trustees, sureties, subrogees, representatives, and insurers.

JURISDICTION AND VENUE

3. Jurisdiction of this court arises pursuant to *15 U.S.C. 1692k(d)*, which states that such actions may be brought and heard before "any appropriate United States district court without regard to the amount in controversy."
4. Defendant conducts business in the state of Texas, and therefore, personal jurisdiction is established.
5. Venue is proper pursuant to *28 U.S.C. 1331(b)(2)*.

PARTIES

6. Plaintiff is a natural person residing in Desoto, County of Dallas, Texas.
7. Plaintiff is a consumer as that term is defined by *15 U.S.C. 1692a(3)*, and according to Defendant, Plaintiff allegedly owes a debt as that term is defined by *15 U.S.C. 1692a(5)*.
8. Defendant is an alleged debt collector as that term is defined by *15 U.S.C. 1692a(6)*, and sought to collect a consumer debt from Plaintiff.
9. Defendant is a national debt collection company with its main office located in Amherst, New York and conducts business in Texas.

FACTUAL ALLEGATIONS

10. Defendant constantly and continuously places collection calls to Plaintiff, multiple times per day, seeking and demanding payment for an alleged consumer debt.
11. Defendant's representative, Bill Taylor, calls from its phone number 888-633-2049.
12. Defendant threatens and/or implies that a lawsuit has been filed against Plaintiff (See Exhibit A).
13. Defendant's representative, Bill Taylor, states: "You are on my schedule for Service of Court Summons" (See Exhibit A)
14. Defendant requests that Plaintiff "get in touch with the filing party," implying that a lawsuit has been filed. (See Exhibit A)
15. Defendant implies that a lawsuit has been filed by stating "case number attached to your Social of 216057. (See Exhibit A)
16. Defendant states that failure to contact that office immediately will result in service of Summons at either his residence or his place of employment. (See Exhibit A)
17. Defendant fails to disclose that it is a debt collector seeking to collect a debt. (See Exhibit A)

18. Defendant fails to give meaningful disclosure of its identity when contacting Plaintiff (See Exhibit A)

19. Defendant failed to send written verification of the alleged debt to Plaintiff.

20. To the best of Plaintiff's knowledge and belief, Defendant has not initiated a formal lawsuit against him.

COUNT I
DEFENDANT VIOLATED THE FAIR DEBT COLLECTION PRACTICES ACT

21. Defendant violated the FDCPA based on the following:

- a. Defendant violated §1692d of the FDCPA by engaging in conduct the natural consequence of which was to harass, oppress, and abuse Plaintiff.
- b. Defendant violated §1692d(5) by causing a telephone to ring or engaging in telephone conversation repeatedly or continuously with intent to annoy, abuse or harass Plaintiff.
- c. Defendant violated §1692d(6) by placing telephone calls to Plaintiff without giving meaningful disclosure of the caller's identity.
- d. Defendant violated §1692e of the FDCPA by using false, deceptive or misleading representation or means in connection with the collection of a debt.
- e. Defendant violated §1692e(2)(A) of the FDCPA by falsely representing the legal status of the alleged debt.
- f. Defendant violated §1692e(5) of the FDCPA by threatening to take action that cannot legally be taken or is not intended to be taken.
- g. Defendant violated §1692e(10) of the FDCPA by using deceptive means in an attempt to collect a debt by using language that implies that a lawsuit has been filed

against Plaintiff.

- h. Defendant violated §1692e(10) of the FDCPA by using deceptive means in an attempt to collect a debt by informing Plaintiff that immediate action is required to prevent the service of Summons at Plaintiff's residence or place of employment.
- i. Defendant violated §1692e(11) by failing to disclose in subsequent communications that it is a debt collector.
- j. Defendant violated §1692g(a)(1-5) by failing to provide appropriate notice of the debt within 5 days after the initial communication including: (1) the amount of the debt; (2) the name of the creditor to whom the debt is owed; (3) a statement that unless the consumer, within 30 days after receipt of the notice, disputes the validity of the debt, or any portion thereof, the debt will be assumed to be valid by the debt collector; (4) a statement that if the consumer notifies the debt collector in writing within the 30-day period that the debt, or any portion thereof, is disputed, the debt collector will obtain verification of the debt or a copy of a judgment against the consumer and a copy of such verification or judgment will be mailed to the consumer by the debt collector; and (5) a statement that, upon the consumer's written request within the 30-day period, the debt collector will provide the consumer with the name and address of the original creditor, if different from the current creditor.

WHEREFORE, Plaintiff, RIS ROLLINS, respectfully requests judgment be entered against Defendant, RECOVERY PROCESSING SYSTEMS, for the following:

- 22. Statutory damages of \$1,000.00 pursuant to the Fair Debt Collection Practices Act, *15 U.S.C. 1692k*,

23. Costs and reasonable attorneys' fees pursuant to the Fair Debt Collection Practices Act, *15 U.S.C. 1692k*

24. Any other relief that this Honorable Court deems appropriate.

RESPECTFULLY SUBMITTED,

Dated: July 30, 2010

By:/s/Peter Cozmyk,
Peter Cozmyk Esq.
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DEMAND FOR JURY TRIAL

PLEASE TAKE NOTICE that Plaintiff, RIS ROLLINS, demands a jury trial in this case.

VERIFICATION OF COMPLAINT AND CERTIFICATION

STATE OF TEXAS

Plaintiff, RIS ROLLINS, states the following:

1. I am the Plaintiff in this civil proceeding.
2. I have read the above-entitled civil Complaint prepared by my attorneys and I believe that all of the facts contained in it are true, to the best of my knowledge, information and belief formed after reasonable inquiry.
3. I believe that this civil Complaint is well grounded in fact and warranted by existing law or by a good faith argument for the extension, modification or reversal of existing law.
4. I believe that this civil Complaint is not interposed for any improper purpose, such as to harass any Defendant(s), cause unnecessary delay to any Defendant(s), or create a needless increase in the cost of litigation to any Defendant(s), named in the Complaint.
5. I have filed this Complaint in good faith and solely for the purposes set forth in it.
6. Each and every exhibit I have provided to my attorneys which has been attached to this Complaint is a true and correct copy of the original.
7. Except for clearly indicated redactions made by my attorneys where appropriate, I have not altered, changed, modified or fabricated these exhibits, except that some of the attached exhibits may contain some of my own handwritten notations.

Pursuant to 28 U.S.C. § 1746(2), I, RIS ROLLINS, hereby declare (or certify, verify or state) under penalty of perjury that the foregoing is true and correct.

Date

RIS ROLLINS

EXHIBIT A

How are you doing? My name is Bill Taylor and I am trying to get in touch with a Ris Rollins. Ris, I am contacting you in regards to an affidavit I received in my office from a company called Recovery Processing Systems and attached to it they have a request for me to give you a courtesy call, but I do have to let you know Ris, at this time you are on my schedule for service of court summons and it looks like this is regards to a bad check that you wrote, so you may want to take advantage of this phone call, get in touch with the filing party, and get this matter resolved. _____ assist order, phone number listed on the affidavit to the filing party is as follows, 1-888-633-2049. Ris, they have also got a case number attached to your social of 216057 and Ris Rawlins I will advise you as well that failure to contact their office immediately will result in the service of summons at either your residence or your place of employment. Ris you have been notified and I do wish you the best of luck sir.